

## **EXHIBIT T**

1 UNITED STATES BANKRUPTCY COURT

2 SOUTHERN DISTRICT OF NEW YORK

3 Case No. 08-99000-smb

4 - - - - - x

5 In the Matter of:

6 BERNARD L. MADOFF,

7 Debtor.

8 - - - - - x

9 Adv. Case No. 09-01503-smb

10 - - - - - x

11 IRVING H. PICARD, Trustee for the Liquidation of Bernard L.

12 Madoff Investment Securities LLC,

13 Plaintiff,

14 v.

15 MADOFF et al,

16 Defendants.

17 - - - - - x

18 Adv. Case No. 08-01789-smb

19 - - - - - x

20 SECURITIES INVESTOR PROTECTION CORPORATION

21 Plaintiff,

22 v.

23 BERNARD L. MADOFF INVESTMENT SECURITIES, LLC et al,

24 Defendants.

25 - - - - - x

1 Adv. Case No. 10-4891-smb

2 - - - - - x

3 IRVING H. PICARD, Trustee for the Liquidation of Bernard L.

4 Madoff Investment Securities LLC,

5 Plaintiff,

6 v.

7 THE ROBERT AUERBACH REVOCABLE TRUST, THE JOYCE C. AUERBACH

8 REVOCABLE TRUST, ROBERT AUERBACH, individually, and

9 JOYCE C. AUERBACH, individually, as Trustee of the Robert

10 Auerbach Revocable Trust, and as Trustee of the Joyce C.

11 Auerbach Revocable Trust,

12 Defendants.

13 - - - - - x

14 Adv. Case No. 10-04283-smb

15 - - - - - x

16 IRVING H. PICARD, Trustee for the Liquidation of Bernard L.

17 Madoff Investment Securities LLC,

18 Plaintiff,

19 v.

20 STEVEN MENDELOW et al,

21 Defendants.

22 - - - - - x

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1 question. Yes, we did ask you previously to be admitted in  
2 the (indiscernible - Cullen) case to intervene.

3 THE COURT: It's sub judice.

4 MR. LEVY: Pardon me?

5 THE COURT: It's sub judice.

6 MR. LEVY: It's sub judice? We have the exact  
7 same issues in almost the exact posture of this case  
8 although we are here earlier than we were in (indiscernible  
9 - Cullen).

10 THE COURT: Well, the issues, I don't know what  
11 the issues are until I see the pretrial order. As I said  
12 with respect to (indiscernible - Cullen), I'm not going to  
13 hear you on issues that the party doesn't intend to raise.

14 MR. LEVY: Understood, Your Honor.

15 THE COURT: I may not hear you readily but I'm  
16 certainly not going to hear you on issues that the parties  
17 aren't raising. So I don't know what the issues are.

18 MR. LEVY: Then may I suggest, Your Honor, we'll  
19 remain vigilant as to what's happening in the procedure. We  
20 may well be back here to ask you for permission to appear.

21 THE COURT: I'm sure you will be.

22 MR. LEVY: Thank you, Your Honor.

23 THE COURT: All right. Thank you.

24 MR. FOLKENFLIK: Thank you, Your Honor.

25 THE COURT: Thanks. See you April 14th. The

1 discovery conference in Bernfeld. Yes.

2 WOMAN: Good morning, Your Honor. Counsel did  
3 appear. The clerk had asked me if counsel is here and at  
4 the time he wasn't but he is here now.

5 THE COURT: Did you give your appearance to the  
6 reporter?

7 MR. WEDEEN: Not yet, Judge.

8 THE COURT: Why don't you do that?

9 MR. WEDEEN: Good morning, Timothy Wedeen, W-E-D-  
10 E-E-N. Judge, I'm here on three cases, all the same issue.

11 THE COURT: Okay.

12 MR. WEDEEN: Just for the record it's  
13 (indiscernible) number 4841, 4918 and 8514.

14 THE COURT: Go ahead.

15 MS. HOCHMOTH: Good morning, Your Honor. My name  
16 is Farrell Hochmoth here on behalf of the trustee. As  
17 counsel said, I'm here on three cases (indiscernible), Alan  
18 Bernfeld and Marilyn Bernfeld. I am here today to ask the  
19 court's permission to file a motion for sanctions pursuant  
20 to Federal Rule of Civil Procedure 37b2A and C.

21 The trustee served discovery in each of these  
22 three cases last July. When defendants did not respond to  
23 that discovery, the court held a conference at the end of  
24 October where he ordered the defendants to respond to the  
25 discovery. Orders were submitted to the court and signed

1 requiring the defendants to respond to the discovery by  
2 December 1st. December 2nd, we did not receive the  
3 discovery. I followed up with counsel and then eventually  
4 filed another letter on December 11th.

5 THE COURT: Go ahead.

6 MS. HOCHMOTH: Thank you, Your Honor. On December  
7 11th requesting a conference so that the trustee could seek  
8 permission to file a motion for sanctions. That letter was  
9 originally set for a conference t the end of January.  
10 Before the hearing, counsel contacted me telling me that he  
11 had health issues necessitating an adjournment of the  
12 conference, which we did agree to, to today.

13 I never gave counsel any indication that I would  
14 permit any additional time to respond to discovery. In  
15 fact, Your Honor has required him to respond to all the  
16 discovery by December 1st. We have received no responses in  
17 this case to date.

18 I would like to point out the discovery responses  
19 are now six months overdue. There is no excuse for why  
20 counsel has not provided responses. Counsel admits that the  
21 illness that he was diagnosed with didn't occur until  
22 January which provides no excuse for not responding from  
23 August through now. Also, counsel said he's working on a  
24 reduce schedule, but in my mind, that would still permit  
25 counsel and defendants to respond to your orders from

1 December 1st.

2 THE COURT: Okay.

3 MR. WEDEEN: Your Honor, I agree that we are in  
4 fault. I would like to correct Ms. Hochmoth, actually, that  
5 I had some health issues which I have recovered from that  
6 were not insignificant.

7 My clients have provided me responses. I was  
8 wondering if Your Honor could enter almost a conditional  
9 order. Just we could have another three weeks more,  
10 thinking somewhere around there, Judge, I will be able to  
11 file responses in (indiscernible) and it should be self-  
12 enforcing. I may not --

13 THE COURT: And self-enforcing means what? To  
14 consent to the entry of judgment if you don't provide full  
15 responses?

16 MR. WEDEEN: Yes. The delay, Judge --

17 THE COURT: Sounds like it could be a shortcut.

18 MR. WEDEEN: Well, Judge, at this juncture, Your  
19 Honor, the delay really is on me. I mean, I don't belabor  
20 my medical conditions to the court but --

21 MS. HOCHMOTH: Okay. Your Honor, we would request  
22 that if you did consider that that you -- we would also then  
23 seek permission to file a motion to seek our attorneys fees  
24 in having to come down here.

25 THE COURT: You know what? Why don't you make

1 your motion? This has gone on long enough. You may be  
2 entitled to attorneys fees. You may be entitled to other  
3 sanctions, including the striking of the entry of judgment.  
4 But there is a conclusion. Why don't you make the motion?  
5 This has gone on a long time and I think this is the third  
6 conference I've had on this case about this matter.

7 MS. HOCHMOTH: Thank you.

8 MR. WEDEEN: Second, Judge.

9 THE COURT: Second. You go ahead and make your  
10 motion.

11 MR. WEDEEN: And we'll return on the 18th for the  
12 motions, Your Honor?

13 THE COURT: Why don't you see if you can work it  
14 out on a reasonably short schedule, otherwise just make the  
15 motion and get a return date for --

16 MS. HOCHMOTH: Yes, Your Honor. Thank you very  
17 much.

18 THE COURT: Okay. Take a five minute break before  
19 we do Mendelow. That's the last one I have.

20 (break)

21 THE COURT: Mendelow.

22 MR. NEW: Good morning, Your Honor. Jonathan New  
23 for the trustee. The trustee is seeking leave to amend the  
24 complaint in this adversary proceeding for the first time  
25 and in the very early stages of discovery. As the proposed